

Before the
Federal Communications Commission
Washington, DC 20554

2001 SEP 21 P 2:57

In the Matter of)

Request for Waiver by)

Watonwan County Library)
St. James, Minnesota)

Federal-State Joint Board on)
Universal Service)

Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

File No. SLD-179438

CC Docket No. 96-45

CC Docket No. 97-21✓

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ORDER

Adopted: September 19, 2001

Released: September 20, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Waiver Request filed by Watonwan County Library (Watonwan), St. James, Minnesota. Watonwan seeks a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.¹ For the reasons set forth below, we deny Watonwan's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.² In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.³ The Administrator must post the FCC Form 470 on its website, and the applicant is required to wait 28 days before making a commitment with a

¹ Letter from Cheryl Bjoin, Watonwan County Library, to Federal Communications Commission, filed July 11, 2000 (Waiver Request).

² 47 C.F.R. §§ 54.502, 54.503.

³ 47 C.F.R. § 54.504(b)(1), (b)(3).

selected service provider.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ In Block 6 of the FCC Form 471, applicants are required to make certain certifications, including certification of compliance with state and local procurement laws, and the status of the entity's technology plan.⁶ Applicants that file their FCC Forms 471 electronically, using the Administrator's website, are required to separately submit a signed Block 6 certification.⁷

3. The Commission's rules allow the Administrator to implement an internal filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.⁸ Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.⁹ It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window. In Funding Year 3, the filing window for the FCC Forms 471 closed January 19, 2000, at 11:59 p.m. Eastern Standard Time.¹⁰ The filing deadline for signed Block 6 certifications for applicants that filed their FCC Forms 471 electronically was January 31, 2000, at 11:59 p.m. Eastern Standard Time.¹¹

4. Watonwan requests a waiver of the Funding Year 3 application window. Watonwan asserts that it completed most of the application electronically from January 14, 2000 to January 17, 2000, and believed that it had properly submitted the completed application.¹² Watonwan concedes, however, that it failed to complete the Block 6 certification portion of the application.¹³ Therefore, the record demonstrates that Watonwan did not complete the application online within the filing window.

⁴ 47 C.F.R. §§ 54.504(b)(3), (4); § 54.511.

⁵ 47 C.F.R. § 54.504(c).

⁶ Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

⁷ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (September 1999) (FCC Form 471 Instructions), at 24.

⁸ 47 C.F.R. § 54.507(c).

⁹ 47 C.F.R. § 54.507(g).

¹⁰ SLD website, What's New (December 6, 1999) <<http://www.sl.universalservice.org/whatsnew/121999.asp>>.

¹¹ SLD website, What's New (January 2000), <<http://www.sl.universalservice.org/whatsnew/012000.asp>>. The filing window deadline for certifications for Funding Year 3 was originally January 26, 2000, but on January 25, 2000, SLD extended the deadline for submission of certifications to January 31, 2000. *Id.*

¹² Waiver Request; Letter from Cheryl Bjoin, Watonwan County Library, to Schools and Libraries Division, Universal Service Administrative Company, filed March 13, 2000 (Appeal to SLD).

¹³ Appeal to SLD.

5. Watonwan contends that SLD notified it on March 7, 2000 that its application had not been completed.¹⁴ On March 8, 2000, well after the filing window closed, Watonwan filed its completed FCC Form 471 electronically.¹⁵ Watonwan bases its Waiver Request on unspecified "bugs in the [SLD] system," and on its assertion that it submitted a paper copy of the Block 6 certification by mail before the January 31, 2000 deadline.¹⁶

6. We conclude that Watonwan has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹⁷ In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of getting its forms and other information to SLD for processing within the established deadline if the applicant wishes to be considered with other in-window applicants.

7. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. As an initial matter, the record does not support Watonwan's assertion that it submitted a paper copy of its Block 6 certification prior to the deadline for certifications on January 31, 2000. The only Block 6 certification on file with SLD is dated March 8, 2000, and was received by SLD on March 10, 2000.¹⁸ Moreover, even if Watonwan had filed a paper copy of its Block 6 certification before the January 31, 2000 deadline for certifications, it concedes that it failed to complete and submit its FCC Form 471 within the filing window.¹⁹ Applications are deemed timely only when SLD receives the complete application within the established timeframe.

8. Watonwan also blames unspecified "bugs" in the SLD electronic filing process for its failure to complete its FCC Form 471 in a timely manner.²⁰ However, numerous other applicants successfully competed their applications electronically within the filing window during the same time period that Watonwan claims it attempted to complete its on-line filing. In sum, Watonwan fails to demonstrate a sufficient basis for waiving the Commission's rules.

9. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures.²¹ In order for the program to work efficiently, the applicant must assume

¹⁴ *Id.*

¹⁵ FCC Form 471 (Form 471), Watonwan County Library, St. James, Minnesota, filed March 10, 2000.

¹⁶ Waiver Request; Appeal to SLD.

¹⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁸ FCC Form 471.

¹⁹ Appeal to SLD.

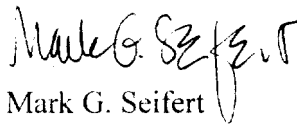
²⁰ Appeal to SLD.

²¹ *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD-13364, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. 2000), at para. 8 ("In light of the thousands of applications that SLD

responsibility for timely submission of its application materials if it wishes to be considered within the window. Here, Watonwan fails to present good cause as to why it could not timely file its application. We therefore find no basis for waiving the filing window deadline.

10. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by the Watonwan County Library, St. James, Minnesota, on July 11, 2000, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.”).